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Attorneys for the Town

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF ARIZONA**

**Curis Resources (Arizona), Inc.**, a Nevada  
corporation,

Plaintiff,

v.

**Town of Florence**, an Arizona municipal  
corporation

Defendant.

No. 2:12-CV-02215-JAT

**ANSWER**

Defendant Town of Florence, by and through its attorney undersigned, for its  
Answer to Plaintiff's Complaint alleges and states as follows:

**Parties**

1. Answering Paragraph 1, the Town is without sufficient information to form a  
belief as to the truth of the allegations therein and therefore denies the same.
2. Answering Paragraph 2, the Town admits the allegation therein.

**Jurisdiction and Venue**

3. Answering Paragraph 3, the Town denies the allegations therein.
4. Answering Paragraph 4, the Town admits that this Court has jurisdiction.
5. Answering Paragraph 5, the Town admits that venue is also proper in this Court.

**The Florence Copper Project**

6. Answering Paragraph 6, the Town admits only that Curis owns land within the municipal boundaries of Florence. As to the remaining allegations therein, the Town is without sufficient information to form a belief as to their truth and therefore denies the same.
7. Answering Paragraph 7, the Town is without sufficient information to form a belief as to the truth of the allegations therein and therefore denies the same.
8. Answering Paragraph 8, the Town is without sufficient information to form a belief as to the truth of the allegations therein and therefore denies the same.
9. Answering Paragraph 9, the Town is without sufficient information to form a belief as to the truth of the allegations therein and therefore denies the same.
10. Answering Paragraph 10, the Town is without sufficient information to form a belief as to the truth of the allegations therein and therefore denies the same.
11. Answering Paragraph 11, the Town is without sufficient information to form a belief as to the truth of the allegations therein and therefore denies the same.
12. Answering Paragraph 12, the Town is without sufficient information to form a belief as to the truth of the allegations therein and therefore denies the same.
13. Answering Paragraph 13, the Town is without sufficient information to form a belief as to the truth of the allegations therein and therefore denies the same.
14. Answering Paragraph 14, the Town is without sufficient information to form a belief as to the truth of the allegations therein and therefore denies the same.
15. Answering Paragraph 15, the Town is without sufficient information to form a belief as to the truth of the allegations therein and therefore denies the same.
16. Answering Paragraph 16, the Town is without sufficient information to form a belief as to the truth of the allegations therein and therefore denies the same.

**Project Opposition by Town of Florence**

17. Answering Paragraph 17, the Town denies the allegations therein.

1 18. Answering Paragraph 18, the Town admits only that it took certain actions  
2 alleged in Paragraph 18, but denies that they actions were taken “to restrict Curis’  
3 ability to operate the Project.” The Town denies any allegations not specifically  
4 admitted herein.

5 **Florence Sulfuric Acid Ordinance**

6 19. Answering Paragraph 19, the Town admits the allegations therein.

7 20. Answering Paragraph 20, the Town admits that the Ordinance was released to the  
8 public with the Agenda for the August 6, 2012 meeting. At this time, the Town is  
9 without sufficient information to form a belief as to whether the transcript of the  
10 Council meeting attached as Exhibit E of the Complaint is a true and correct  
11 transcript of that meeting and therefore denies that part of the allegations in  
12 Paragraph 20.

13 21. Answering Paragraph 21, the Town admits the allegation therein.

14 22. Answering Paragraph 22, the Town is without sufficient information to form a  
15 belief as to the truth of the allegations therein and therefore denies the same.

16 23. Answering Paragraph 23, the Town admits the allegations therein.

17 24. Answering Paragraph 24, the Town admits the allegations therein.

18 25. Answering Paragraph 25, the Town admits only that the Ordinance lists, and the  
19 Town Council considered, numerous health and safety concerns to human life by  
20 the use of large quantities of sulfuric acid. The Town denies the remaining  
21 allegations not specifically admitted herein.

22 26. Answering Paragraph 26, the Town denies the allegations therein.

23 27. Answering Paragraph 27, the Town admits the definition of “large quantities” as  
24 defined therein and that the Ordinance does not define “sulfuric acid.” The Town  
25 denies the remaining allegations not specifically admitted herein.  
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- 1 28. Answering Paragraph 28, the Town admits that “agricultural operations” are  
2 exempted from the Ordinance and denies the remaining allegations not specifically  
3 admitted herein.
- 4 29. Answering Paragraph 29, the Town denies that the only intent of the Ordinance  
5 was to prevent Curis from moving forward with the Project. The Town  
6 affirmatively alleges that the Ordinance speaks for itself such that no interpretation  
7 or partial quotation is appropriate. The Town denies all allegations not specifically  
8 admitted herein.
- 9 30. Answering Paragraph 30, the Town admits that the draft ordinance presented to  
10 the Florence Town Council made reference to Curis but affirmatively alleges that  
11 the Ordinance as enacted by the Florence Town Council deleted such references to  
12 Curis. The Town denies that the Ordinance was directed solely at Curis and  
13 affirmatively alleges that the Ordinance was enacted to protect the health and  
14 safety of the residents.
- 15 31. Answering Paragraph 31, the Town admits that the Council passed the Ordinance  
16 removing references to Curis and denies the remaining allegations not specifically  
17 admitted herein.
- 18 32. Answering Paragraph 32, the Town admits Mayor Tom Rankin inquired whether  
19 the Ordinance as amended would apply to Curis and denies the remaining  
20 allegations not specifically admitted herein
- 21 33. Answering Paragraph 33, the Town admits that Florence has not prosecuted any  
22 person or business, including Curis, under the Ordinance. the Town is without  
23 sufficient information to form a belief as to the truth of the allegations not  
24 specifically admitted herein
- 25 34. Answering Paragraph 34, the Town is without sufficient information to form a  
26 belief as to the truth of the allegations therein and therefore denies the same.  
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1 35. Answering Paragraph 35, the Town is without sufficient information to form a  
2 belief as to the truth of the allegations therein and therefore denies the same.

3 36. Answering Paragraph 36, the Town is without sufficient information to form a  
4 belief as to the truth of the allegations therein and therefore denies the same.

5 **Count 1**  
6 **Equal Protection**

7 37. Answering Paragraph 37, the Town re-alleges its answers above for Paragraphs  
8 1-36.

9 38. Answering Paragraph 38, the Town denies the allegations therein.

10 39. Answering Paragraph 39, the Town denies the allegations therein.

11 40. Answering Paragraph 40, the Town denies the allegations therein.

12 41. Answering Paragraph 41, the Town denies the allegations therein.

13 42. Answering Paragraph 42, the Town denies the allegations therein.

14 43. Answering Paragraph 43, the Town denies the allegations therein.

15 **Count 2**  
16 **Due Process**

17 44. Answering Paragraph 44, the Town re-alleges its answers above for Paragraphs  
18 1-43.

19 45. Answering Paragraph 45, the Town denies the allegations therein.

20 46. Answering Paragraph 46, the Town denies the allegations therein.

21 47. Answering Paragraph 47, the Town denies the allegations therein.

22 48. Answering Paragraph 48, the Town denies the allegations therein.

23 **Count 3**  
24 **Impairment of Contract**

25 49. Answering Paragraph 49, the Town re-alleges its answers above for Paragraphs  
26 1-49.

27 50. Answering Paragraph 50, the Town is without sufficient information to form a  
28 belief as to the truth of the allegations therein and therefore denies the same.

51. Answering Paragraph 51, the Town is without sufficient information to form a  
belief as to the truth of the allegations therein and therefore denies the same.

1 52. Answering Paragraph 52, the Town admits only that it is a class one  
2 misdemeanor to “conduct a business which utilizes large quantities of sulfuric  
3 acid” within the Town boundaries or two-miles thereof. The Town denies that the  
4 Ordinance impairs any contractual relationship in violation of the Constitution.  
5 The Town denies any allegation not specifically admitted herein.

6 53. Answering Paragraph 53, the Town is without sufficient information to form a  
7 belief as to the truth of the allegations therein and therefore denies the same.

8 54. Answering Paragraph 54, the Town denies the allegations therein.

9 **Count 4**

10 **Impairment of Contract (Arizona Constitution)**

11 55. Answering Paragraph 55, the Town re-alleges its answers above for Paragraphs  
12 1-54.

13 56. Answering Paragraph 56, the Town is without sufficient information to form a  
14 belief as to the truth of the allegations therein and therefore denies the same.

15 57. Answering Paragraph 57, the Town is without sufficient information to form a  
16 belief as to the truth of the allegations therein and therefore denies the same.

17 58. Answering Paragraph 58, the Town admits only that it is a class one  
18 misdemeanor to “conduct a business which utilizes large quantities of sulfuric  
19 acid” within the Town boundaries or two-miles thereof. The Town denies that the  
20 Ordinance impairs any contractual relationship in violation of the Arizona  
21 Constitution. The Town denies any allegation not specifically admitted herein.

22 **Count 5**

23 **Special Law (Arizona Constitution)**

24 59. Answering Paragraph 59, the Town re-alleges its answers above for Paragraphs  
25 1-58.

26 60. Answering Paragraph 60, the Town admits only that the Ordinance applies to in-  
27 situ mining if performed using “large quantities” of sulfuric acid as defined in the  
28 Ordinance. The Town denies any allegation not specifically admitted herein.

1 61. Answering Paragraph 61, the Town is without sufficient information to form a  
2 belief as to the truth of the allegations therein and therefore denies the same.

3 62. Answering Paragraph 62, the Town denies the allegations therein.

4 63. Answering Paragraph 63, the Town denies the allegations therein.

5 64. Answering Paragraph 64, the Town denies the allegations therein.

6 **Count 6**  
7 **Federal and State Preemption**

8 65. Answering Paragraph 65, the Town re-alleges its answers above for Paragraphs  
9 1-64.

10 66. Answering Paragraph 66, the Town alleges that this is not a factual allegation, but  
11 is a legal conclusion requiring no further response and is therefore denied. The  
12 Town affirmatively alleges that the Arizona Constitution speaks for itself.

13 67. Answering Paragraph 67, the Town alleges that this is not a factual allegation, but  
14 is a legal conclusion requiring no further response and is therefore denied. The  
15 Town affirmatively alleges that the statute speaks for itself.

16 68. Answering Paragraph 68, the Town denies the allegations therein.

17 69. Answering Paragraph 69, the Town is without sufficient information to form a  
18 belief as to the truth of the allegations therein and therefore denies the same.

19 70. Answering Paragraph 70, the Town denies the allegations therein.

20 71. Answering Paragraph 71, the Town denies the allegations therein.

21 **Count 7**  
22 **Exceeding Statutory Authority**

23 72. Answering Paragraph 72, the Town re-alleges its answers above for Paragraphs  
24 1-71.

25 73. Answering Paragraph 73, the Town denies the allegations therein.

26 74. Answering Paragraph 74, the Town admits only that under ARS 9-24 the Town  
27 has the authority to define and abate nuisances. the Town denies the remaining  
28 allegations therein as they are statutory citations that require no further response

75. Answering Paragraph 75, the Town denies the allegations therein.

1 76. Answering Paragraph 76, the Town denies the allegations therein.

2 **Count 8**  
3 **Declaratory Relief**

4 77. Answering Paragraph 77, the Town re-alleges its answers above for Paragraphs  
5 1-76.

6 78. Answering Paragraph 78, the Town denies the allegations therein.

7 79. Answering Paragraph 79, the Town denies the allegations therein.

8 80. Answering Paragraph 80, the Town denies the allegations therein.

9 81. Answering Paragraph 81, the Town denies the allegations therein.

10 82. Answering Paragraph 82, the Town denies the allegations therein.

11 **Count 9**  
12 **Injunction**

13 83. Answering Paragraph 83, the Town re-alleges its answers above for Paragraphs  
14 1-82.

15 84. Answering Paragraph 84, the Town denies the allegations therein.

16 85. Answering Paragraph 85, the Town denies the allegations therein.

17 86. Answering Paragraph 86, the Town is without sufficient information to form a  
18 belief as to the truth of the allegations therein and therefore denies the same.

19 87. Answering Paragraph 87, the Town denies the allegations therein. The Town  
20 affirmatively alleges the Ordinance was enacted to protect the health and safety of  
21 the citizens of Florence.

22 88. Answering Paragraph 88, the Town denies the allegations therein.

23 **Affirmative Defenses**

24 A. The Ordinance was not enacted as an attack on Curis or in-situ mining but a  
25 good-faith effort of the Town to protect the health and safety of its citizens.

26 B. The Town did not act with intent or purpose to discriminate.

27 C. The Town's action in enacting the Ordinance was rationally related to its  
28 significant and legitimate concerns about the health and safety of its  
citizens.



1 D. There was no deprivation of life, liberty, or property.

2 E. Any government action here did not rise to the level of “shocks the  
3 conscience.”

4 F. The Ordinance does not unconstitutionally impair Curis’ rights under a  
5 lawful contract under federal or state law.

6 G. The Ordinance is a proper exercise of the Town’s authority to define,  
7 regulate and abate nuisances within the Town and within two-miles of the  
8 Town’s limits.

9 H. The Town hereby incorporates all affirmative defenses set forth in Fed. R.  
10 Civ. P. Rule 8(c) and 12(b).

11 I. Plaintiff’s complaint fails to state a claim upon which relief can be granted.

12 J. The Town, its officials and employees, are immune from alleged damages.

13 K. The Town denies any and all allegations not specifically admitted herein.

14 L. Plaintiff failed to avail himself of adequate state law remedies.

15 **WHEREFORE**, the Town prays for relief as follows:

16 A. Deny all claims for relief requested by Plaintiffs.

17 B. That this Court award the Town its costs and reasonable attorneys’ fees  
18 incurred herein.

19 C. For such other and further relief that the court deems just and reasonable.  
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**DATED** this 6th day of November, 2012.

**SIMS MURRAY, LTD.**

/s/ Jeffrey T. Murray  
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**CERTIFICATE OF MAILING**

I hereby certify that on this 6th day of November, 2012, I electronically transmitted the attached document to the Clerk's Office using the ECF System for filing, and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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